

**DAVID C. STACKHOUSE - December 17, 2009**  
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1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION

4 - - -

4 Snap-On Business Solutions, Inc., :  
5 Plaintiff, :  
6 vs. : Case No.  
7 O'Neil & Associates, Inc., : 5:09-CV-01547-JG  
8 Defendant. :

9 - - -

10 VIDEOTAPED DEPOSITION OF DAVID C. STACKHOUSE  
11 \*\*CONFIDENTIAL\*\*  
12 \*ATTORNEYS' EYES ONLY\*

13 - - -

14 Thursday, December 17, 2009  
15 10:17 o'clock a.m.  
16 Hahn, Loeser & Parks, LLP  
65 East State Street, 14th Floor  
Columbus, Ohio

17 - - -

18 SHAYNA M. GRIFFIN  
19 REGISTERED PROFESSIONAL REPORTER  
20 CERTIFIED REALTIME REPORTER

21 - - -

22 ANDERSON REPORTING SERVICES, INC.  
23 3242 West Henderson Road, Suite A  
Columbus, Ohio 43220  
24 (614) 326-0177  
FAX (614) 326-0214

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1 Q. Okay. Fair enough.

2 Let's go to Paragraph -- this will go  
3 quick, but we're going to do it the hard anyway.

4 A. Okay.

5 Q. Paragraph 48, it says, "Snap-On is barred  
6 from any equitable relief by the doctrines of waiver  
7 and unclean hands."

8 Do you know of any facts that support that  
9 statement?

10 A. No.

11 Q. Do you even understand that statement?

12 A. Yeah, I'm having a hard time getting my  
13 head around it. Yeah.

14 Q. I wouldn't have necessarily expected you  
15 to.

16 Let's go to 49, which might be a little  
17 easier. It says, "Any O'Neil access to MCFA data was  
18 with authorization or permission and did not exceed  
19 such authorization."

20 Let me start with do you understand that  
21 sentence?

22 A. Yes.

23 Q. Well, what does it mean by any O'Neil  
24 access to MCFA data was with authorization?

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1 MR. SCHRADER: Objection. You can answer,  
2 David.

3 A. It means that MCFA provided us with the  
4 necessary credentials which were authorized.

5 Q. What -- this is just a term I hadn't heard  
6 before this case. What exactly are credentials?

7 A. Credentials is a set of information used  
8 to authenticate you into an information system. So  
9 the most common example of that would be a user name  
10 and password combination.

11 Q. And when -- and when credentials are used  
12 in relation to this matter, is that what it means,  
13 user name and password?

14 A. Yes.

15 Q. Or is there anything else?

16 A. That's what it means to me, user name and  
17 password, credentials authorization.

18 Q. Okay. So when you say MCFA provided  
19 O'Neil with the necessary credentials, you just mean  
20 with passwords?

21 A. That's right.

22 Q. User names and passwords?

23 A. Right. They authorized us to access --  
24 you know, they -- they authorized us by providing us

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1 with a credential set.

2 Q. Okay. And how many credential sets were  
3 you provided -- was O'Neil provided?

4 A. I can't recall exactly. There should be,  
5 you know, an e-mail trail to show that. I believe  
6 that it was five or six.

7 Q. And what did those credentials provide  
8 O'Neil access to?

9 A. It's my understanding that it provided us  
10 access to the hosted sites, the MCFA hosted sites  
11 that Snap-On was hosting for MCF.

12 Q. Were there more than one sites -- more  
13 than one site?

14 A. Yes, I believe there were. I think there  
15 were six altogether.

16 Q. Do you know what those six sites are?

17 A. I don't know the UR -- the specific URLs,  
18 I mean, from memory. It's my understanding that  
19 there was an America's, a European and a -- kind of a  
20 Pacific or Asian site, and then you had two for each  
21 one of those, giving you the six.

22 Q. I'm sorry. Two for each one of those?

23 A. Two, so you've got your America's,  
24 European and then Asian Pacific. So there's three

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1   you provide that so that the application can run on  
2   it, and then you provide Internet access so that that  
3   piece of software can communicate over the Internet  
4   to whatever it needs to talk to, in this case, the  
5   Snap-On hosted sites; and then the necessary band  
6   width, you know, or the capacity to do that in a  
7   fairly, you know, quick manner.

8   Q.           What kind of band width was needed for the  
9   -- well, let me back up.

10           You said they said they had a tool.  We're  
11   talking about Armando Monzon and Dean Schuler?

12   A.           Uh-huh.

13   Q.           What was the tool?

14   A.           The reclamation tool.

15   Q.           I think I've also seen it referred to as a  
16   data acquisition tool.  Does that sound familiar?

17   A.           I think I've heard it called that before.

18   Q.           Okay.  Have you also heard it called a  
19   scraper?

20   A.           Yes.

21   Q.           And is a reclamation tool and a scraper  
22   the same thing?

23   A.           Yes.

24   Q.           And what exactly does a reclamation tool

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1 or scraper do? We'll get into the specifics of the  
2 tool because I've got some documents. But, just  
3 generally, what does it do?

4 A. Generally what would any one --

5 Q. Yeah.

6 A. Well, generally, the idea is that it would  
7 simulate what a user could do interactively with the  
8 website by pointing and clicking, only it's  
9 automated, and, therefore, able to point, click and  
10 do other things that the user would do in an  
11 automated manner, making it able to run unattended in  
12 a much more efficient way than if, you know, a person  
13 were behind the -- interactively using the site. And  
14 then it -- when it interacts with the site, then it  
15 then copies what data it can via that interaction and  
16 stores it.

17 Q. And you're saying site. Is this websites?  
18 Is that what you're talking about?

19 A. Yes.

20 Q. Now, is this run through a browser?

21 A. Does the reclamation tool run through a  
22 browser?

23 Q. Correct.

24 A. To my knowledge, no.

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1 Q. Okay. Does it simulate a browser?

2 A. Yes. I think that would be an accurate  
3 statement to say that it simulates a browser.

4 Q. Okay. And so when you run a reclamation  
5 tool, does it take a website link and go to that  
6 website, or what does -- how does the process work?

7 A. Well, you know, I'm not the one to speak  
8 in detail about exactly how that works. I know that  
9 we did provide extensive documentation detailing  
10 that.

11 Q. I'm still talking generally.

12 A. Generally.

13 Q. If you're using a scraper or a reclamation  
14 tool on a website, how does that work?

15 A. Well, I mean, I would say you would have  
16 to give it a URL or a website address because it has  
17 to know where to go, of course. And then once it  
18 knows where to go, then it navigates the site and  
19 does what I mentioned, which is simulate user  
20 interaction and then copy the data and store it.

21 Q. Okay. When you say "copy the data," what  
22 do you mean by that?

23 A. Well, copy the data. And I'm not trying  
24 to be difficult. I mean, you know, basically, so if

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1 you were to see it on the screen, you know, if you  
2 were to interact with the website, you know, it would  
3 be the same as right click, copy. I mean, you've  
4 done that. You've used a computer.

5 Q. Sure.

6 A. And you would paste it into a file and  
7 move on to the next one. So it's similar to that.

8 Q. Okay. So you're talking about looking at  
9 the screen and picking certain pieces of information  
10 that you want to then copy?

11 A. Right.

12 Q. Does the reclamation tool actually  
13 download the website page that you're then cutting  
14 and pasting from?

15 A. No. To download the page, no, I don't  
16 believe that's the case. Understanding that, you  
17 know, a website page when you see it is rendered, you  
18 know, there's HTML, there's Java Script, there's  
19 graphics, there's the actual text.

20 Q. Uh-huh. Uh-huh.

21 A. You know, all of that is being combined  
22 and parsed and then displayed in the browser. So  
23 when you're doing it, performing that action in a  
24 non-interactive way, in other words, in a browser



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1 with a person, you know, to say that you're  
2 downloading the page and copying the page, I don't  
3 think that's accurate.

4 Q. Is the page being stored in a cache on the  
5 computer?

6 A. I don't -- again, you know -- and this is  
7 very specific, so I don't even think you can  
8 generalize it in terms of talking about a reclamation  
9 tool in a general sense. I don't know. I would say  
10 the fact cache is copied information. That's its  
11 definition. So the fact that the reclamation tool is  
12 copying information, I would say almost, by  
13 definition, it's caching it. But when you say cache,  
14 that generally means that you're caching it so that  
15 you don't have to retrieve it again in order to make  
16 the next operation more expedient.

17 Q. Okay. Okay.

18 A. That wasn't our, you know, purpose. The  
19 purpose was to copy the information. So I don't  
20 think that caching --

21 Q. Okay.

22 A. -- is quite the right...

23 Q. Well, and when you -- when -- and we're  
24 still talking generally, but when a reclamation tool

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1 cuts and pastes certain information, where is it  
2 cutting and pasting that information from? I mean,  
3 is it still over on somebody else's computer or is it  
4 on the computer you're running the reclamation tool?  
5 Where is it?

6 A. Well, you said cut and paste. You know,  
7 it's not a cut and paste. It would be --

8 Q. I'm sorry. Was it right click?

9 A. -- more akin to a copy and paste.

10 Q. Okay.

11 A. So you cut something, it's no longer on  
12 the source.

13 Q. Fair enough.

14 A. Right. And then you paste it and it's on  
15 the destination. So in a copy and paste scenario,  
16 you're still leaving it, of course, on the source.

17 Yeah, I mean, the paste operation is the  
18 -- you're copying it, you're duplicating it and then  
19 you're storing it on the destination system, which is  
20 our system, and you're keeping --

21 Q. But before you copy and then paste it --  
22 before you copy it --

23 A. Uh-huh.

24 Q. -- where is that information? Whose

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1 computer is that information on?

2 A. Well, the information is transmitted from  
3 the source system to the destination system. So it  
4 originates from the source system; in this case,  
5 Snap-On, well, and the hosted site, either, you know,  
6 maintained for MCF and then being transmitted over  
7 the wire to us or to any client who would be  
8 retrieving the information.

9 Q. So a copy of that information ends up on  
10 O'Neil's computers?

11 A. That's right.

12 Q. And where on O'Neil's computers does that  
13 end up?

14 A. On that same server upon which the  
15 reclamation tool is running. So, you know, it does  
16 its thing. We have a back end SQL database where  
17 it's storing information that it's copy and pasted,  
18 basically. And we also store -- I know that we  
19 stored the graphics images that we copy and pasted  
20 onto the file system.

21 So the data that was reclaimed existed in  
22 two areas on our server once it was pasted, so to  
23 speak, into the server. It existed in a SQL -- in  
24 SQL databases and on the file system as graphics

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1 images.

2 Q. Let me go back, because I am interested in  
3 before you actually do that copy and paste, if you  
4 will --

5 A. Okay.

6 Q. -- of the text and the certain  
7 illustrations. When you copy that information to  
8 then save it to -- was it SQL database --

9 A. Sure, SQL in the file system.

10 Q. -- where is that information that you're  
11 copying?

12 A. Prior to being transmitted to us?

13 Q. No. Once it's -- once it's transmitted to  
14 you --

15 A. It is stored -- it's transmitted over the  
16 wire and then stored, so that's where it's at in the  
17 SQL database in the file system.

18 Q. Okay. Let me back up, though.

19 Are you actually only retrieving certain  
20 data from the Snap-On server, or do you actually  
21 download a Web page and then on O'Neil's computer you  
22 cut and then save that information?

23 A. Okay. Now -- now we've transitioned from  
24 the general to the specific.

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1 Q. Yeah. We've been doing that.

2 A. We have been doing that, just so we're  
3 clear.

4 Q. You started, so I'm going to run with you  
5 on that.

6 A. Yeah, and that's fine. But just so we're  
7 clear, you know.

8 It is my understanding -- and, again, the  
9 specifics of the application are, you know, better  
10 addressed by others who were closer to it. But it's  
11 my understanding that we are only retrieving the  
12 parts that we need. So I would say the former  
13 scenario that you mentioned there, which was, you  
14 know, only the pieces that we need, not downloading  
15 an entire page and then attempting to, you know, take  
16 apart what we need, so --

17 Q. And I'm wondering if -- how you only  
18 retrieve certain pieces of information from a website  
19 hosted on another person's computer without bringing  
20 that website page over onto your computer.

21 A. Well, again, I think you would want to  
22 talk to the folks directly involved in the  
23 development of the reclamation tool, because they are  
24 going to be most familiar with that kind of thing.

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1 Q. Okay. You ever heard of a RAM disk?

2 A. Sure.

3 Q. What's a RAM disk?

4 A. What's a RAM disk?

5 Q. Uh-huh.

6 A. A RAM disk is where you use RAM and you  
7 simulate hard drive storage so that you can send  
8 information to it, and it behaves like a hard disk.  
9 So it's -- it's -- RAM is addressable as a hard disk,  
10 and the advantages are that it's much faster. But  
11 it's volatile, so when the machine is turned off, it  
12 goes away.

13 Q. A RAM disk is volatile?

14 A. A RAM disk is volatile, uh-huh.

15 Q. Hard drive and RAM are both considered  
16 memory, aren't they?

17 A. Storage or memory, yes.

18 Q. Let me go back to Exhibit 205. I think  
19 it's in front of you still.

20 A. Okay.

21 Q. Paragraph 49 again. I want to get the  
22 last part of that sentence. "Any O'Neil access to  
23 MCFA data was with authorization or permission and  
24 did not exceed such authorization."

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1                   Do you know what that last part is  
2   referring to?

3                   MR. SCHRADER:  Objection.  You can answer,  
4   David.

5   A.               No, I don't.

6   Q.               Don't know what it means --

7   A.               Well, I mean, did not -- you're asking if  
8   I know what did not exceed such authorization --

9   Q.               Correct.

10   A.              I mean, to my knowledge, we were given the  
11   credentials, we accessed the site with those  
12   authorized credentials, and that was it, using the  
13   reclamation tool.  And, you know, we were authorized  
14   to do that by MCF, so we did not exceed that  
15   authorization.

16   Q.              Those credentials, do you know who they  
17   belong to?

18   A.              No.  If I were to look at the e-mail, I  
19   mean, I assume there would be user names and that  
20   would be then who those credentials belong to.

21   Q.              How about -- let's go to the next one.  
22   This will probably go quickly.  But Paragraph 50, it  
23   says, "Any use O'Neil may have made of MCFA data was  
24   with authorization or permission and did not exceed

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1 Q. By this document, you mean Exhibit 201?

2 A. Exhibit 201, yes.

3 Q. Okay.

4 A. We transmitted the reclaimed data itself,  
5 and that was the databases and the graphics files.  
6 That's about all of it, you know. Anywhere there was  
7 information pertaining to Snap-On or MCF, we sent  
8 that out.

9 MR. SCHRADER: I don't want to testify for  
10 the witness, but just to be sure, you might want to  
11 ask him whether he provided the reclamation tool in  
12 executable format also.

13 MR. GAUM: Okay.

14 BY MR. GAUM:

15 Q. Did you file -- did you provide the  
16 reclamation tool in executable form as well?

17 A. I believe that we did, yes.

18 MR. GAUM: Anything else you want me to  
19 ask?

20 MR. SCHRADER: How did I know that answer?  
21 And I hope you don't -- I just want --

22 MR. GAUM: You want a complete list.

23 MR. SCHRADER: Yeah.

24 MR. GAUM: And that's fine.